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□ Court Certified Mediator
■ Court Certified Arbitrator / Mediator

June 13, 2018

VIA EMAIL AND U.S. MAIL

John E. Parker, Esquire
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Barrett R. Brewer, Esquire
Brewer Law Firm, LLC
P. O. Box 1847
Mt. Pleasant, SC 29465

C. Russell Keep, III, Esquire
Keep Law Office
P. O. Drawer 5877
Hilton Head Island, SC 29938

Re: Lisa Sulka vs. C. C. "Skip" Hoagland, et al.
Civil Action No.: 2017-CP-07-01547
Our File No.: 1935.001

Gentlemen:

Enclosed please find a copy of an Objection and Motion to Quash Subpoena to Town of Bluffton in the above captioned matter which I hereby serve upon you by email and the U.S. Postal Service as evidenced by the Certificate of Service attached to the pleading.

Very truly yours,

FINGER, MELNICK & BROOKS, P.A.



E. Richardson LaBruce

ERL/cc

Enclosure

cc: Marc Orlando (via email only)

F:\client\B\Bluffton\Hoagland\Sulka Litigation\Litigation\Subpoena\Drafts\Correspondence\Attorneys 01 Ltr re-Motion to Quash Subpoena - Bluffton.doc

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
Civil Action No.: 2017-CP-07-01547

LISA SULKA,)
)
Plaintiff,)
)
vs.)
)
C.C. "SKIP" HOAGLAND and DOMAINS)
NEW MEDIA, LLC;)
)
Defendants.)
_____)

**OBJECTION AND MOTION TO
QUASH SUBPOENA TO
TOWN OF BLUFFTON**

TO: BARRETT R. BREWER, ESQUIRE, Attorney for C.C. "Skip" Hoagland and Domains
New Media, LLC:

YOU WILL PLEASE TAKE NOTICE the undersigned hereby objects, pursuant to Rule 45(c) of the South Carolina Rules of Civil Procedure, to the subpoena issued to the Town of Bluffton (the "**Town**") on behalf of the Defendants (the "**Defendants**") and asks that the Court quash or modify the Subpoena for the reasons set forth herein. The Subpoena was issued on May 30, 2018, by certified mail, return receipt requested, and commands production and inspection on or before June 14, 2018, at 2:00 p.m. A copy of the Subpoena is attached hereto as Exhibit "**A**." The grounds for this objection and motion are as follows:

1. The Subpoena is overly broad and not reasonably calculated to lead to the discovery of admissible evidence, and is beyond the scope of relative material to the lawsuit. For instance, the Subpoena requests "[a]ny emails, no matter the content and subject" between the Plaintiff, the individual Defendant, and various individuals. The majority of the requested materials appear to be and are wholly irrelevant to the underlying action involving defamation claims asserted by the Plaintiff against the Defendants. Therefore, the Town objects to the Subpoena to the extent it seeks documents or records that are irrelevant to this action.

2. The Subpoena also requests documents that will be protected by the attorney-client privilege and/or work product doctrine. Therefore, the Town objects to the Subpoena to the extent that it seeks any confidential or personal materials or personal materials protected by the attorney-client privilege or work product doctrine.

3. The Subpoena also requests materials that are specifically exempt from disclosure pursuant to the South Carolina Code of Laws, 1976, as amended.

For all of these reasons, the Town of Bluffton objects to the Subpoena and requests that the Court quash the Subpoena and/or issue a protective order. This motion is further based on the pleadings filed in the matter, the rules of court, all state and federal statutes, any memorandum of law or affidavit to be submitted prior to the hearing, along with any other information this Court will allow to be submitted prior to the hearing on this matter.

The undersigned has attempted to confer with counsel for Defendants regarding the subpoena, and the undersigned has attempted to inform Counsel for the Defendants that the Town will file an objection and/or motion to quash with respect to the Subpoena.

FINGER, MELNICK & BROOKS, P.A.

By: s/ E. Richardson LaBruce
E. Richardson LaBruce, SC Bar No. 80106
Attorney for the Town of Bluffton

35 Hospital Center Common, Suite 200
P.O. Box 24005-4005
Hilton Head Island, SC 29925
Telephone: (843) 681-7000
E-mail: erlabruce@fingerlaw.com

Hilton Head Island, South Carolina
June 13, 2018.



EXHIBIT "A"

Brewer Law Firm LLC
Post Office Box 1847
Mt. Pleasant, South Carolina 29465
barrett@brewerlawfirm.com
o: (843) 779-7454
f: (843) 779-7456

May 29, 2018

Via Certified Mail – Return Receipt Requested

Town of Bluffton
20 Bridge Street
Bluffton, SC 29910

RE: Lisa Sulka vs. C.C. "Skip" Hoagland and Domains New Media, LLC
Name: Lisa Sulka
Case No.: 2017-CP-07-01547

Dear Sir/Madam:

Enclosed please find our records subpoena requesting that you produce to us a **complete** copy of your records on **Lisa Sulka** by **June 14, 2018 at 2:00 p.m.** Prior to preparing these copies, please notify us of the cost should it exceed \$75.00. Please be advised that said copies should be made pursuant to S.C. Code § 38-77-341. Additionally, please enclose a letter certifying that the materials produced are, in fact, a complete copy of your file on Lisa Sulka.

A copy of the subpoena and cover letter you have received has been served on all counsel of record, as listed below, or the Plaintiff if proceeding without counsel. The time for objections under Rule 45 of the South Carolina General Statute is fourteen (14) days (or by the date of the subpoena if the subpoena requests records to be produced in less than fourteen days).

We would request that you not send us the records any sooner than fourteen days after the date of this subpoena so as to afford Lisa Sulka time to object under the rules. Should this office receive notice of an objection, we will notify you and we will ask that you await resolution of the matter by the courts. Again, provided no objection is filed within fourteen days, please provide the records to our office by **June 14, 2018, at 2:00p.m.**

Please return with your records the enclosed **Affidavit of Records Custodian**, certifying that the records provided in response to this subpoena are, a complete and accurate copy of Lisa Sulka's records.

Thank you for your time and attention to this request and please give me a call if you have any questions.

Very truly yours,

BREWER LAW FIRM, LLC


Barrett R. Brewer

BRB/mdc

May 30, 2018

Page 2

Enclosures

cc: Daniel E. Henderson, Esq. (Via e-mail w/enclosures)
John E. Parker, Esq. (Via e-mail w/enclosures)
Charles Russ Keep, III, Esq. (Via e-mail w/enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COURT OF COMMON PLEAS IN THE COUNTY OF BEAUFORT

Lisa Sulka, Plaintiff

v.

SUBPOENA DUCES TECUM IN A CIVIL CASE

C.C. "Skip" Hoagland and Domains New Media,
LLC, Defendants

Case Number:2017-CP-07-01547

Pending in Beaufort County

**TO: Town of Bluffton
20 Bridge Street
Bluffton, SC 29910**

YOU ARE COMMANDED to appear in the above-named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
----------------------------	----------------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below:

SEE ATTACHMENT "A"

PLACE BREWER LAW FIRM, LLC Post Office Box 1847 Mt. Pleasant, SC 29465	DATE AND TIME June 14, 2018 at 2:00 p.m.
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YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

BREWER LAW FIRM, LLC

Barrett R. Brewer, Esq.
Post Office Box 1847
Mt. Pleasant, SC 29465
Phone:(843) 779-7454

May 29, 2018
Date

Barrett R. Brewer
Print Name

Attorney for Defendants


30

PROOF OF SERVICE

SERVED	DATE May 29, 2018	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$
	PLACE: Town of Bluffton	
SERVED ON: Custodian of Records -- 20 Bridge Street Bluffton, South Carolina, 29910.		MANNER OF SERVICE: Certified Mail -- Return Receipt Requested
SERVED BY Melissa Carlton		TITLE: Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on 5-30-2018

SIGNATURE OF SERVER 
 Post Office Box 1847
 Mt. Pleasant, SC 29465
 ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

Club of Hilton Head, Boys and Girls Club of Bluffton Advisory Committee, and Boys and Girls Club of the Lowcountry.

2. Any and all contracts, real estate purchase agreements, closing statements, HUD-1 statements, deeds, mortgages, loan documents, government fund documents, emails, correspondence, money transfers, plans, drawings, photographs, development documents, regarding real estate transactions involving the Town of Bluffton related to the Community Development Block Grant ("CDBG"); real estate transactions in Bluffton Village; involving the Town of Bluffton, related to location and construction of Bluffton Town Hall and/or for parking for the Town Hall; real estate transactions involving the Town of Bluffton and the Wharf Street project.

3. Any emails to or from Lisa Sulka at her work address lisa@carsonrealtysc.com, engaging in business on behalf of the Town of Bluffton, SC.

4. Any emails, no matter the content and subject, between Lisa Sulka, and Skip Hoagland, Greg Alford; Kim Likins, Drew Laughlin, David Bennett, Thomas Lennox, Bill Harkins, Stephen Riley; Bill Miles, Charlie Clark, Ray Deal, and David Tigges; C Michael Hahn, Jonathan Matthew Rowe, Nickey Maxey.

5. Any documentation, memos, records and/or emails concerning Skip Hoagland, his emails, and/or his public speaking at Town of Bluffton Council meetings, Town of Bluffton ATAX Committee meetings, Finance Committee meetings, or any other Town of Bluffton sponsored meeting where public speaking is allowed and it has involved Hoagland.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
LISA SULKA,)
)
Plaintiff,)
)
vs.)
)
C.C. "SKIP" HOAGLAND and)
DOMAINS NEW MEDIA, LLC;)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO.: 2017-CP-07-01547

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that I, Catherine Carstensen, Legal Assistant to E. Richardson LaBruce, Esquire, attorney for the Town of Bluffton, have this day sent a true and accurate copy of an Objection and Motion to Quash Subpoena to Town of Bluffton in the above-captioned matter to:

John E. Parker, Esquire
Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A.
P. O. Box 457
Hampton, SC 29924

and

Daniel E. Henderson, Esquire
Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A.
P. O. Drawer 2500
Ridgeland, SC 29936

Attorneys for Plaintiff Lisa Sulka

Barrett R. Brewer, Esquire
Brewer Law Firm, LLC
P. O. Box 1847
Mt. Pleasant, SC 29465

and

C. Russell Keep, III, Esquire
Keep Law Office
P. O. Drawer 5877
Hilton Head Island., SC 29938

*Attorneys for Defendants C. C. "Skip" Hoagland
and Domains New Media, LLC*

via email and the U.S. Postal Service with first class postage prepaid.


Catherine Carstensen

Hilton Head Island, South Carolina
June 13, 2018

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